

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1280

Introduced by Dierks, 40

Read first time January 18, 2000

Committee: Agriculture

A BILL

1 FOR AN ACT relating to livestock; to amend sections 54-701,
2 54-701.02, 54-704, and 54-746, Reissue Revised Statutes
3 of Nebraska, and sections 54-701.03 and 54-744, Revised
4 Statutes Supplement, 1999; to change provisions relating
5 to livestock health and disease; to define terms; to
6 create an advisory committee; to provide for surveillance
7 of diseases; to provide for voluntary livestock
8 certification programs; and to repeal the original
9 sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 54-701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 54-701. (1) The Department of Agriculture shall be
4 vested with the power and charged with the duties of protecting the
5 health of livestock in Nebraska and determining and employing the
6 most efficient and practical means for the prevention, suppression,
7 control, and eradication of dangerous, infectious, contagious, or
8 ~~otherwise transmissible diseases among~~ other diseases transmissible
9 to and among livestock. ~~To that end, the~~ The department may place
10 in quarantine any county or part of any county, any private
11 premises, or any private or public stockyards and may quarantine
12 any animal infected with such disease or which has been or is
13 suspected of having been exposed to infection therefrom, may kill
14 any animal so infected, and may regulate or prohibit the arrival
15 into and departure from and movement within the state of any animal
16 infected with such disease or exposed or suspected of having been
17 exposed to the cause, infection, or contagion therefrom. At the
18 cost of the owner, the department may detain any animal found in
19 violation of any departmental or statutory regulation or
20 prohibition.

21 (2) The department may adopt, promulgate, and enforce
22 such rules and regulations as may be necessary for the supervision
23 and control of manufactured and refined food for animals to prevent
24 deleterious substances being present in human foods of animal
25 origin and the manufacture, importation, sale, and storage of any
26 biological material including semen, remedy, or curative agent for
27 use on or in any animal that may be capable of causing or spreading
28 disease, and as far as practicable such rules and regulations

1 approved by the United States Department of Agriculture shall be
2 adopted. All of the powers and duties of the department with
3 reference to the protection of the health of livestock shall be
4 exercised by and through the Bureau of Animal Industry.

5 Sec. 2. Section 54-701.02, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 54-701.02. (1) The Legislature finds and declares that
8 animal disease control is essential to the livestock industry and
9 the health of the economy of this state. ~~The Legislature further~~
10 ~~finds and declares that, without additional resources, the~~
11 ~~Department of Agriculture will not be able to (1) improve~~
12 ~~surveillance and compliance in regard to animal disease control to~~
13 ~~attain goals such as achieving and maintaining the United States~~
14 ~~Department of Agriculture's classification of Class Free State for~~
15 ~~brucellosis in cattle, (2) maintain and enhance the pseudorabies~~
16 ~~control and eradication program required by the Pseudorabies~~
17 ~~Control and Eradication Act, or (3) maintain current services to~~
18 ~~livestock producers due to the withdrawal of field staff from~~
19 ~~Nebraska by the Animal and Plant Health Inspection Service of the~~
20 ~~United States Department of Agriculture. The Department of~~
21 ~~Agriculture may employ special investigators pursuant to~~
22 ~~subdivision (7) of section 81-201 and other personnel deemed~~
23 ~~necessary to maintain and improve animal disease control in this~~
24 ~~state.~~

25 (2) The department may:

26 (a) Act to control emergency livestock disease
27 situations;

28 (b) Conduct surveillance necessary to monitor program

1 diseases and enforce compliance in order to maintain and enhance
2 current control and eradication services regarding livestock
3 disease control;

4 (c) Conduct surveillance to detect and monitor nonprogram
5 diseases after consultation with an advisory committee appointed by
6 the director which has determined such diseases are, or have the
7 potential of, causing a serious health threat to the livestock
8 industry;

9 (d) Conduct surveillance for diseases on livestock in
10 livestock herds, at slaughter establishments, at concentration
11 points, and at other places where livestock are assembled. When
12 the diseases are nonprogram diseases, surveillance shall be done
13 when in concurrence with the owner of the premise where the
14 surveillance is to be conducted, except that if the State
15 Veterinarian determines, in his or her judgment, that the diseases
16 pose a serious threat to the livestock industry, the State
17 Veterinarian may order surveillance to be conducted at any place
18 where livestock are assembled;

19 (e) Develop protocol and procedures for surveillance,
20 including:

21 (i) Which tests are to be deemed the official tests;

22 (ii) Who will administer the testing;

23 (iii) How the testing will be conducted and reimbursement
24 for the testing;

25 (iv) The reaction tolerances to be recognized; and

26 (v) The classification of the results as negative,
27 suspect, or positive;

28 (f) Appoint, through the director, an advisory committee

1 from the affected livestock industry as needed to carry out the
2 intent of this section. The purpose of the committee will be to
3 advise and recommend, to the department, when a disease or diseases
4 should be monitored by surveillance and what diseases should be
5 considered for proposed legislation for a disease control
6 eradication program;

7 (g) Provide new services including voluntary livestock
8 certification programs; and

9 (h) Conduct epidemiological studies in situations of
10 known or suspected disease transmission to and among livestock and
11 from livestock to humans.

12 (3) In carrying out its powers and duties relating to
13 livestock, the department may cooperate and contract with persons
14 or local, state, and national organizations, public or private.
15 The department may also enter into agreements with other state or
16 federal agencies to allow such agencies' personnel to work in
17 Nebraska and to allow the department's personnel to work in other
18 states or with federal agencies under a cooperative work program.

19 Sec. 3. Section 54-701.03, Revised Statutes Supplement,
20 1999, is amended to read:

21 54-701.03. For purposes of sections 54-701 to 54-705 and
22 54-742 to 54-753.05 and sections 5, 7, and 11 to 21 of this act:

23 (1) Accredited veterinarian means a veterinarian approved
24 by the deputy administrator of the United State Department of
25 Agriculture in accordance with 9 C.F.R. part 161;

26 (2) Affected herd means a herd in which livestock are
27 infected;

28 (3) Animal means all vertebrate members of the animal

1 kingdom except humans or uncaptured wild animals;

2 (4) Bureau of Animal Industry means the Bureau of Animal
3 Industry of the Department of Agriculture and includes the State
4 Veterinarian, deputy state veterinarian, veterinary field officers,
5 livestock inspectors, investigators, and other employees of the
6 bureau and veterinarians, animal health technicians, and
7 investigators employed by the federal Animal and Plant Health
8 Inspection Service of the United States Department of Agriculture
9 and performing duties delegated to them by the bureau;

10 (5) Certificate of veterinary inspection or health
11 certificate means a legible record issued by an accredited
12 veterinarian in accordance with the requirements of the state or
13 country of destination, recorded on an official form of the state
14 of origin or an approved United States Department of Agriculture
15 form;

16 (6) Dangerous disease means a disease transmissible to
17 and among livestock which has the potential for serious and rapid
18 spread which is of serious socioeconomic or livestock health
19 consequence and which is of major importance in the trade of
20 livestock and livestock products;

21 (7) Department means the Department of Agriculture or its
22 authorized agent;

23 (8) Director means the Director of Agriculture or his or
24 her designee;

25 ~~(2)~~ (9) Domesticated cervine animal means any elk, deer,
26 or other member of the family cervidae legally obtained from a
27 facility which has a license, permit, or registration authorizing
28 domesticated cervine animals which has been issued by the state

1 where the facility is located and such animal is raised in a
2 confined area;

3 (10) Emergency livestock disease means a dangerous
4 disease that poses an immediate serious socioeconomic or health
5 threat to the livestock industry of the state;

6 (11) Exposed means being part of an affected herd or
7 having had a reasonable opportunity to come in contact with an
8 infective disease agent;

9 (12) Herd means any group of livestock maintained on
10 common ground for any purpose or two or more groups of livestock
11 under common ownership or supervision geographically separated but
12 which have an interchange of livestock without regard to whether
13 the livestock are infected or exposed to disease;

14 (13) Infected means having a disease caused by a
15 pathogenic organism as determined by the interpretation of results
16 of an official test or tests by a person approved to make such
17 determinations or diagnosed by a veterinarian as having clinical
18 signs of the disease when supported by the results of an official
19 test or tests;

20 ~~(3)~~ (14) Livestock means cattle, swine, sheep, horses,
21 goats, domesticated cervine animals, ratite birds, and poultry;

22 (15) Livestock market means a livestock auction market as
23 defined in section 54-1158, a livestock market as defined in
24 section 54-2001, and markets, including buying stations, approved
25 under 9 C.F.R. parts 71, 75, 78, and 85;

26 (16) Negative means not infected as determined by the
27 department based on results of an official test or tests;

28 (17) Official test means a testing procedure recognized

1 for use in the diagnosis of a specific disease by (1) the United
2 States Department of Agriculture or (2) the department in rules and
3 regulations;

4 (18) Positive means infected as determined by the
5 department based on results of an official test or tests;

6 ~~(4)~~ (19) Poultry means domesticated birds that serve as a
7 source of eggs or meat and includes, but is not limited to,
8 chickens, turkeys, ducks, and geese; and

9 (20) Program disease means a livestock disease for which
10 specific legislation exists for disease control or eradication;

11 (21) Quarantine means restriction of:

12 (a) Movement imposed by the department on livestock,
13 including one or more animals classified suspect, positive, or
14 exposed, or on a herd which is reasonably suspected of being
15 infected or exposed; or

16 (b) Use of equipment, facilities, land, buildings, and
17 enclosures which are used or have been used by animals quarantined
18 because of being infected with a disease;

19 (22) Quarantine facility means any enclosure sufficient
20 to prevent animals from coming into physical contact with any
21 infected animal or such animal's body excrements;

22 ~~(5)~~ (23) Ratite bird means any ostrich, emu, rhea, kiwi,
23 or cassowary;

24 (24) Sale means a sale, lease, loan, trade, or gift;

25 (25) Surveillance means the collection and testing of
26 livestock blood, tissue, or other samples done in a herd or
27 randomly selected livestock to determine the presence or incidence
28 of disease in the state or area of the state;

1 (26) Suspect means the inability to be classified as
2 positive or negative as determined by the department based on the
3 results of an official test or tests; and

4 (27) Veterinarian means an individual who is a graduate
5 of an accredited college of veterinary medicine.

6 Sec. 4. Section 54-704, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 54-704. Any veterinary inspector or agent of the United
9 States Department of Agriculture, Animal and Plant Health
10 Inspection Service, Veterinary Services, who has been officially
11 assigned by the ~~department~~ United States Department of Agriculture
12 for service in Nebraska may be officially authorized by the
13 Department of Agriculture to perform and exercise such powers and
14 duties as may be prescribed by the department and when so
15 authorized shall have and exercise all rights and powers vested by
16 sections 54-701 to 54-753.05 in agents and representatives in the
17 regular employ of the department.

18 Sec. 5. To effectuate a workable livestock disease
19 reporting system the department may adopt and promulgate rules and
20 regulations to accomplish the provisions of section 54-742
21 regarding the duty to report diseased animals. The rules and
22 regulations shall establish who shall report diseases, what
23 diseases shall be reported, how such diseases shall be reported, to
24 whom diseases shall be reported, the method by which diseases shall
25 be reported, and the frequency of reports required. For disease
26 reporting purposes, the department shall categorize livestock
27 diseases according to relative socioeconomic or health risk factors
28 and may provide different reporting criteria for the various

1 categories.

2 Sec. 6. Section 54-744, Revised Statutes Supplement,
3 1999, is amended to read:

4 54-744. (1) Except as set out in subsection (2) of this
5 section, it is the duty of the owner or custodian of any animal
6 which dies from and on account of any infectious, contagious, or
7 otherwise transmissible disease to cause such animal, within
8 thirty-six hours after receiving knowledge of the death of such
9 animal, to be buried at least four feet below the surface of the
10 ground or to be completely burned on the premises where such animal
11 dies unless the animal is disposed of to a duly licensed rendering
12 establishment in this state. Such animal shall not be moved or
13 transported from the premises where such animal has died except by
14 the authorized agents and employees of the rendering establishment
15 to which such carcass is disposed. Any animal which dies of
16 disease or is found dead shall be presumed to have died from and on
17 account of an infectious, contagious, or otherwise transmissible
18 disease.

19 (2) Livestock carcasses up to ~~three~~ six hundred pounds
20 may be incorporated into a composting facility on the premises
21 where the livestock died and shall remain in such compost facility
22 until completely composted before spreading on land. Any person
23 incorporating livestock carcasses into a composting facility shall
24 follow the operating procedures as set forth in the Journal of the
25 American Veterinary Medical Association, Volume 210, No. 8. Not
26 less than one copy of such journal, or portion thereof, shall be
27 filed for use and examination by the public in the offices of the
28 Clerk of the Legislature and the Secretary of State. The

1 Department of Agriculture shall regulate the composting of
2 livestock carcasses and shall adopt and promulgate rules and
3 regulations governing the same by December 1, 2000, which rules and
4 regulations may incorporate or may modify the operating procedures
5 set forth in this subsection.

6 Sec. 7. The director may appoint an advisory committee
7 to facilitate on-farm research for new methods for livestock
8 disposal. The committee shall be made up of representatives of the
9 Department of Health and Human Services, the Department of
10 Environmental Quality, the Department of Agriculture, the
11 Department of Veterinary and Biomedical Sciences of the University
12 of Nebraska, and affected segments of the livestock industry. The
13 committee may review test and research protocols and may approve or
14 disapprove proposals for on-farm studies for new livestock disposal
15 methods. The committee may recommend legislation to the Department
16 of Agriculture regarding livestock disposal methods and
17 requirements.

18 Sec. 8. Section 54-746, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 54-746. ~~No~~ Except as otherwise provided in this section,
21 no person shall ship, trail, drive, or otherwise move, permit to be
22 moved, or permit to be driven from one county in the state to any
23 other county in the state, from one part of a county to another, or
24 to any other state any animal which is affected or suspected of
25 being affected with ~~any~~ a dangerous, infectious, contagious, or
26 ~~otherwise other disease~~ transmissible disease to or among livestock
27 without first having obtained a permit from the Department of
28 Agriculture therefor. Livestock may be transported by the owner or

1 the owner's agent to a veterinary clinic or veterinary diagnostic
2 laboratory for purposes of performing diagnostic procedures,
3 examinations, treatments, or tests without such permit.

4 Sec. 9. The Department of Agriculture, in consultation
5 with the livestock industry and the Department of Veterinary and
6 Biomedical Sciences of the University of Nebraska, may develop
7 voluntary livestock certification programs which establish the
8 protocol and procedures for the certification of participating
9 herds. The Department of Agriculture may maintain, through the
10 Bureau of Animal Industry, a Livestock Certification Registry that
11 provides information regarding the certification programs including
12 the names of livestock producers of certified participating herds
13 in each program.

14 Sec. 10. (1) The livestock producers participating in
15 the voluntary livestock certification programs shall pay the
16 primary costs of the programs, including all on-farm testing costs.
17 The department may provide funds, when available, to offset the
18 costs of disease research and laboratory testing done in
19 conjunction with a voluntary livestock certification program.

20 (2) The department may establish protocol and procedures
21 for voluntary herd testing for livestock certification, including
22 the determination of: (a) Which tests are to be deemed the
23 official tests; (b) how and by whom the testing is to be
24 administered; (c) what animals are to be subjected to testing; (d)
25 how often the testing will be conducted; (e) how and to whom the
26 test samples must be submitted; (f) what forms are to be used for
27 sample submission; (g) the reaction tolerances to be recognized;
28 (h) the classification of results as negative, suspect, or

1 positive; and (i) how and by whom the results of the testing are
2 recorded.

3 Sec. 11. A livestock producer who is listed in the
4 Livestock Certification Registry may provide registry and
5 certification information regarding the livestock herd when selling
6 livestock from the herd.

7 Sec. 12. (1) The department may remove the name of a
8 livestock producer of a certified participating herd from the
9 Livestock Certification Registry if the livestock producer has
10 issued false records or statements or has made misleading claims to
11 the department with regard to the livestock certification.

12 (2) Before removal, the department shall notify the
13 livestock producer in writing of the department's intention and the
14 reasons for the proposed removal from the registry. The notice
15 shall inform the applicant of his or her right to request an
16 administrative hearing before the director regarding his or her
17 removal from the registry. A request for hearing shall be in
18 writing and shall be filed with the department within thirty days
19 after the service of the notice is made. If a request for hearing
20 is filed within the thirty-day period, at least twenty days before
21 the hearing the director shall notify the livestock producer of the
22 time, date, and place of the hearing. Such proceeding may be
23 appealed as a contested case under the Administrative Procedure
24 Act.

25 (3) A livestock producer whose name is removed from the
26 Livestock Certification Registry for the first time shall not be
27 eligible to reapply for twelve months from the time of removal. A
28 livestock producer whose name is removed from the registry a

1 subsequent time shall not be eligible to reapply for thirty-six
2 months from the time of removal.

3 Sec. 13. The department and its representatives shall
4 not be held liable for unintentional loss or damage which occurs
5 during certification testing, surveillance and monitoring, disease
6 reporting, disease research and laboratory testing, or because of
7 certification or lack thereof in a voluntary livestock
8 certification program.

9 Sec. 14. Information collected or published by the
10 department pursuant to sections 9 to 14 of this act shall not
11 disclose the identity of individual livestock producers, except
12 for:

13 (a) Information published in the Livestock Certification
14 Registry; and

15 (b) Information collected for the purpose of voluntary
16 livestock certification programs that may be disclosed by the State
17 Veterinarian when, in his or her judgment, failure to disclose the
18 name of a livestock producer or producers could result in the
19 spread of a dangerous, contagious, infectious, or other
20 transmissible disease to and among livestock.

21 Sec. 15. The department may establish protocols and
22 procedures to implement sections 9 to 14 of this act.

23 Sec. 16. Original sections 54-701, 54-701.02, 54-704,
24 and 54-746, Reissue Revised Statutes of Nebraska, and sections
25 54-701.03 and 54-744, Revised Statutes Supplement, 1999, are
26 repealed.